

§ 1944.160

7 CFR Ch. XVIII (1–1–05 Edition)

§ 1944.160 Off-farm loan limits.

(a) For all applicants, including its members, who will be receiving any benefits from Low-Income Housing Tax Credits (LIHTC), the amount of the RHS loan will be limited to no more than 95 percent of the total development cost or 95 percent of the security value, whichever is less.

(b) For all applicants, including its members, not receiving any benefits from LIHTC, who are nonprofit entities or State or local public agencies, the amount of the RHS loan will be limited to the total development cost or the security value, whichever is less, plus the 2 percent initial operating capital.

(c) For all other applicants, including its members, not receiving any benefits from LIHTC, the amount of the RHS loan will be limited to no more than 97 percent of the development cost or the security value, whichever is less.

[64 FR 24480, May 6, 1999]

§§ 1944.161–1944.162 [Reserved]

§ 1944.163 Conditions under which an LH grant may be made.

A grant may be made to an eligible applicant only when all of the following requirements can be met:

(a) The applicant will contribute at least one-tenth of the total development cost, obtained from its own resources, including any power to levy taxes, assessments, or charges, with funds from other sources, or with an LH loan. The applicant's contribution must be available at the time of grant closing. If an LH loan is needed, the applicant will file an application for a combination loan and grant at the same time.

(b) The housing and related facilities will fulfill a pressing need in the area in which the housing is or will be located and there is reasonable doubt that such housing can be provided without the grant.

(1) The applicant will furnish FmHA or its successor agency under Public Law 103-354 factual evidence of fulfilling a pressing need. This need will be documented in accordance with exhibits A-1 or A-2 of this subpart, as applicable, and using exhibit A-4 as a guideline if appropriate.

(2) When appropriate, the District Director may check with sources such as the State Department of Labor, Bureau of Employment Security, and other reliable sources to verify the information submitted.

(3) If, after evaluating the information furnished by the applicant and additional information that may be provided, the District Director determines that the housing will fulfill a pressing need and that a reasonable doubt exists that the housing can be provided without the grant, the District Director will prepare a narrative statement to support these conclusions.

(c) The housing will be constructed in accordance with exhibit A-3 of this subpart.

(d) The housing will be constructed in an economical manner and will not be of elaborate or extravagant design or material.

(e) The housing must be durable and suitable for year round use unless the need for such housing is seasonal and year-round occupancy is not practical and will not be needed. Construction of seasonal farm labor housing will be permitted upon a finding of persistent need for migrant farmworker housing in the area and such housing will be used solely by migrant farmworkers while they are away from their residence. Seasonal farm labor housing that will be occupied for six months or less per year by migrant farmworkers while they are away from their residence, will be constructed in accordance with exhibit I to subpart A of part 1924. Farm labor housing that is to be occupied less than year-round but more than six months shall be in substantial conformance with and be easily convertible to the applicable development standards as required by § 1924.5(d)(1) of subpart A of part 1924 of this chapter. Such projects that are to be occupied less than year-round but more than six months may be approved after review of the savings in construction costs, the plan for conversion to full compliance with development standards and the long term need for such housing.

(f) Housing will be constructed and designed with the consideration given to selecting the most economic, energy

efficient heating (and cooling, if applicable) systems including, but not limited to, insulation in excess of the requirements of exhibit D of subpart A of part 1924 of this chapter (FmHA Instruction 1924-A, exhibit D); active/passive solar design; building orientation; and sun control measures.

[45 FR 47655, July 16, 1980, as amended at 47 FR 28086, June 29, 1982; 52 FR 8036, Mar. 13, 1987]

§ 1944.164 Limitations and conditions.

(a) *Limitations on use of loan and grant funds.* Among the purposes for which loan and grant funds will *not* be used are the following:

(1) Providing housing for the members of the immediate family of the applicant when the applicant is an individual farmowner, family farm corporation, or partnership, or an association of farmers. (Immediate family in this instance includes mother, father, brothers, sisters, sons and daughters of applicant(s) and spouse.)

(2) Housing, related facilities, or household furnishings which are elaborate or extravagant in design or material.

(3) Refinancing debts of the applicant.

(4) Moveable-type furnishings or equipment except household furnishings as defined in § 1944.153(c).

(5) Payment of any fees, charges, or commissions to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of the loan.

(6) Payment of any fee, salary, commission, profit, or compensation to an applicant, or any officer, director, trustee, stockholder, member, or agent of the applicant, except as provided in § 1944.158(i).

(b) *Maximum amount of grant.* The amount of any grant may not exceed the lesser of:

(1) Ninety percent of the total development cost; or

(2) That portion of the total cash development cost which exceeds the sum of any amount the applicant can provide from its own resources plus the amount of a loan which the applicant will be able to repay, with interest, from income from rentals which low-income farmworker families can be

reasonably expected to be able to pay. The availability of rental assistance and HUD section 8 subsidies will be considered in determining the rentals that farmworkers will pay.

(c) *Advance of grant funds.* The times for requesting Treasury Checks representing LH grant funds and depositing such checks in the applicant's supervised bank account will be determined in accordance with § 1944.175. When other funds to help finance the labor housing are being supplied by the applicant from its own resources or from a loan, such other funds will be used before a grant check is requested from the Treasury or deposited in or disbursed from the supervised bank account, as appropriate to comply with § 1944.175.

(d) *Obligations incurred before loan or grant closing.* When the applicant files an application for a loan or grant, the Loan Official will advise the applicant that construction must not be started and obligations for work materials or land must not be incurred or made before the loan or grant is closed, and that it is the policy of RHS not to permit loan or grant funds to be used to pay such obligations or reimburse the applicant for such payments. If, nevertheless, the applicant incurs expenses or makes payments for such purposes before the loan or grant is closed, the State Director may authorize the use of loan or grant funds to pay such expenses or reimburse the applicant only when the State Director finds that all the following conditions exist:

(1) The expenses were incurred:

(i) After the applicant filed a written application for a loan with RHS; or

(ii) before the date of application as part of a predevelopment loan specifically intended as interim financing from a public agency or nonprofit organization and prior concurrence of the National Office is obtained; or

(iii) before the date of application as part of a development loan made to a State or local public agency specifically intended as temporary financing and prior concurrence of the National Office is obtained.

(2) The applicant is unable to pay such expenses from its own resources or from credit from other sources, and failure to authorize the use of loan or